



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
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MAY 13 2014

MEMORANDUM FOR: The Record

FROM: Maria Rea *[Signature]*
Assistant Regional Administrator
California Central Valley Area Office
NOAA Fisheries, West Coast Region

SUBJECT: Categorical Exclusion (CE) for the California Voluntary Drought Initiative Agreements

NOAA Administrative Order (NAO) 216-6, Environmental Review Procedures, requires all proposed initiative agreements to be reviewed with respect to environmental consequences on the human environment. This memorandum summarizes the determination that the approval of the California Voluntary Drought Initiative qualifies to be categorically excluded from further National Environmental Policy Act (NEPA) review.

Description of Initiative Agreements

This proposed initiative agreements is to address urgency created by the 2014 drought. NOAA's National Marine Fisheries Service (NMFS) has developed the Voluntary Drought Initiative to reduce the effects of the drought on priority salmon and steelhead populations in California during the 2014 drought, while Federal and State drought declarations or designations are in effect. This initiative includes an approach to the application of the Federal Endangered Species Act (ESA) section 9 enforcement standards, as they are related to the withdrawal of water, from salmon and steelhead-bearing stream and rivers. It is a temporary, voluntary initiative that is only being implemented during State and Federal drought declarations or designations, with the goal of supporting agricultural activities while protecting the survival and recovery of ESA-listed salmon and steelhead.

NMFS is seeking to encourage participation in the Voluntary Drought Initiative, and, to that end, will in making decisions about bringing or referring enforcement initiative agreements and about appropriate penalties, consider participation in the Drought Initiative an important mitigating factor when a Voluntary Drought Initiative participant unintentionally takes ESA listed fish species while withdrawing water or carries out other initiative agreements that affects fish passage while complying with a Voluntary Drought Initiative agreement. To obtain this special consideration, a Voluntary Drought Initiative participant must establish that it has implemented one of the specified water mitigation measures described in this agreement and fully complied with the requirements of the attached Voluntary Drought Initiative application



checklist. The initiative would establish a California drought initiative policy and separate voluntary agreements between NMFS and water users where water users would agree to provide water for fish protection purposes in certain high priority watersheds.

This initiative is for priority watersheds where the risk of drought-related effects to ESA-listed fish species are greatest. This includes Mill, Deer, and Antelope creeks, the Scott, Shasta, and Russian rivers, and other areas that may come to our attention as the drought progresses. The specific elements of the initiative will be tailored by stream or river system and described in individual Voluntary Drought Initiative Agreements.

Effects of Initiative Agreements(s)

The development and implementation of the California Voluntary Drought Initiative would not result in a significant effect on the human environment. The intention of the California Voluntary Drought Initiative is to work with water users in high priority areas throughout California to reduce the negative effects of the drought on salmon and steelhead. This is a temporary, voluntary initiative that is only being implemented during 2014 State and Federal drought declarations or designations, with the goal of supporting agricultural activities while protecting the survival and recovery of ESA-listed salmon and steelhead.

NEPA Determination

After reviewing the proposed California Voluntary Drought Initiative in relation to NAO 216-6, including the criteria on the attached checklist which has been reviewed by the West Coast Regional NEPA Coordinator, I have concluded that the proposed initiative agreements would not have a significant effect, individually or cumulatively, on the human environment. Further, I believe that the proposed initiative agreements may appropriately be categorically excluded from the requirement to prepare either an environmental assessment or environmental impact statement, in accordance with NAO 216-6. This project does not involve: (1) A geographic area with unique characteristics; (2) public controversy based on potential environmental consequences; (3) uncertain environmental impacts or unique or unknown risks; (4) establishment of a precedent or decision in principle about future proposals; (5) cumulatively significant impacts; or (6) adverse effects upon endangered or threatened species or their habitats. Therefore, the project does not trigger the exceptions for categorical exclusions listed in NAO 216-6, Section 5.05c. Specifically, this project fits under the categorical exclusion described in 6.03c3(i). Based on the criteria outlined in NMFS Policy Directive 30-131, Delegation of Authorities for Completing NEPA Documents, dated March 5, 2007, General Counsel review is not required for this initiative agreements.